

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN (COLUMBUS) DIVISION**

Brian Garrett,
Edward Gonzales,
Kent Kilgore,
Adam Plouse, and
John Does 1-35, *individually and
on behalf of all others similarly situated,*

Plaintiffs,

vs.

The Ohio State University,

Defendant.

Civil Case 2:18-cv-00692-MHW-EPD

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P.
Deavers

Steven Snyder-Hill, et al.,

Plaintiffs,

vs.

The Ohio State University,

Defendant.

Civil Case 2:18-cv-736-MHW-EPD

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P.
Deavers

**GARRETT AND SNYDER-HILL PLAINTIFFS' REPLY IN SUPPORT OF THEIR
MOTION FOR LEAVE TO FILE MOTION TO COMPEL AND EXHIBITS UNDER
SEAL**

The *Garrett* and *Snyder-Hill* Plaintiffs did not expect an opposition to their unopposed motion and are forced to write to correct the record. Defendant The Ohio State University's ("OSU") opposition paints Plaintiffs' motion as less than fully disclosive to the Court. To the contrary, Plaintiffs were endeavoring in good faith *not* to reveal on the public docket information OSU deemed confidential. Specifically, OSU marked its June 13, 2019 informal responses which

were produced in advance of the mediation: “CONFIDENTIAL MEDIATION COMMUNICATION; PURSUANT TO FED. R. EVID. 408 / S.D. OHIO CIV. R. 16.3(C) / PROVISION 3.5 OF S.D. OHIO SUPPLEMENTAL PROCEDURES FOR ALTERNATIVE DISPUTE RESOLUTION.” OSU’s informal responses were provided two days before the mediation, marked subject to the mediation privilege, and are not the subject of Plaintiffs’ motion to compel, which is directed to OSU’s formal July 1, 2019 responses. Accordingly, Plaintiffs’ motion to seal endeavored to protect the mediation privilege and OSU’s confidentiality designation by not revealing on the public docket confidential information. Far from being an attempt to mislead, Plaintiffs were being conscientious to protect OSU’s stated concerns.

OSU’s responses further indicate why a filing under seal is inappropriate. Though OSU marked both its informal June 13, 2019 responses and its July 1, 2019 formal responses as confidential and covered by the mediation privilege, OSU is not treating those documents as confidential. OSU has now placed on the public docket the number of pages of documents it produced and other information about its responses, apparently in an attempt to publicly imply its responses were substantial and provided in good faith. Yet when Plaintiffs seek to dispute the sufficiency of OSU’s responses and move to compel appropriate responses, OSU claims such information cannot be revealed to the public and must be filed under seal.

Regardless, Plaintiffs are interested in a resolution on the merits of its motion to compel and are not looking for a sideshow on sealing. Accordingly, Plaintiffs moved for permission to file under seal, as required by the Court’s rules, in order to file their substantive motion to compel and move forward with obtaining relevant documents in this case.

Respectfully Submitted,

/s/ Debra L. Greenberger

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(by Debra L. Greenberger with email
authorization, 8/21/19)

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CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing document was filed and served, via the Court's CM/ECF system on August 21, 2019, on all counsel of record.

By: /s/ Debra Greenberger
Attorney for Snyder-Hill Plaintiffs